



## COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219-2000

GREGORY A. WHIRLEY  
ACTING COMMISSIONER

May 31, 2006

Dear County Administrators/City & Town Managers:

RE: 2006 Legislative Updates

I wanted to take this opportunity to provide a brief summary of certain legislation approved by the General Assembly during this past session that impacts transportation which will become effective on July 1<sup>st</sup> that may be of interest to you.

### **HB 201 Local Toll Facilities**

This item adds § 33.1-228.1 and allows the governing bodies of adjacent counties, cities and towns to enter agreements providing for the construction and operation of highways, bridges and ferries within their boundaries and for the imposition and collection of tolls for the use of such facilities.

### **HB 665 Vegetation Control**

This item amends § 33.1-371.1 and requires local governments to establish a permitting system to review and issue permits for vegetation control when vegetation obscures the motorists view of outdoor advertising signs on roadways not regulated by VDOT. It further establishes an appeals process through the Commonwealth Transportation Commissioner and establishes a \$400 fee should either the locality or sign owner wish to appeal a vegetation control decision. These bills are similar to legislation passed during the 2005 session giving the Commissioner authority over the repair of nonconforming signs visible from any public right-of-way even when the Commissioner has no other regulatory authority over the thoroughfare (§ 33.1-370.2). The Commissioner currently does have regulatory authority over outdoor advertising on all roads outside of municipalities and on all federal-aid highways within municipalities (§ 33.1-353). (Also SB 87)

### **HB 666 Design-Build Contracts by CTB**

This bill amends § 33.1-12 and eliminates the number and dollar limitations on design-build contracts awarded by the Commonwealth Transportation Board.



### **HB671 Design-Build Contracts by Localities**

This item adds § 33.1-223.2:16 which allows counties, cities and towns to award contracts for the construction of transportation projects on a design-build basis.

### **HB 809 Primary and secondary system highway projects undertaken by counties**

This bill amends § 33.1-75.3 and reflects recommendations made in the “Report for Counties Assuming Responsibility for Their Secondary Construction Program” (House Document #80). The bill grants counties administering their own construction projects the same authority to enter property to survey transportation projects granted the Commonwealth Transportation Commissioner. The bill also provides that any county without an existing franchise agreement shall have the same authority as the Department pertaining to the relocation of utilities. Good examples of where these would apply include 100% bond-funded projects/programs. The bill also gives counties the ability to request the funding of any project to be supplemented solely by state funds to avoid the additional costs associated with complying with federal requirements, provided that the Department has adequate state funds to fully match federal funds and the Department can meet its federal obligation authority.

### **HB 821 Rural Rustic Road Program**

This item amends § 33.1-70.1 and increases the average daily traffic volume to 1000 vehicles for roads to qualify for the Rural Rustic Road Program. The previous limit was 500 vehicles per day. VDOT will revise the Rural Rustic Roads Program Guidelines by July 1<sup>st</sup>. (Also HB 1287)

### **HB 877 Construction by state and local employees**

This bill amends § 33.1-190 and provides that a locality may use local forces under the same provision VDOT uses state forces for work estimated to cost up to \$300,000. It also adds a provision that when a locality has obtained a cost estimate for maintenance or construction work on any of the roads in any system of state highways estimated to cost between \$300,000 and \$650,000 and the locality has issued an invitation for bid and has received fewer than two bids from private entities to build or maintain such roads, the Commonwealth Transportation Board may enter into written agreements with localities for local employees to perform that work. (Also SB196)

### **HB 1192 Cash proffers and road improvements**

This bill amends § 15.2-2303.2 and allows localities to negotiate with an entity that is constructing road improvements pursuant to a proffered zoning condition and expand the scope of the road improvements by utilizing cash proffers of others or other available locally generated funds. This is intended to provide a cost savings if an entity is already performing work in the area and can expand the scope of services to perform other needed work. The local governing body must adopt a resolution stating the basis for awarding the construction contract to extend the scope of the road improvements. (Also SB681, SB262)

### **HB 1282 Industrial access roads**

This bill reflects recommendations made in the Report “Definition of Businesses and Industry that Qualify for Industrial Access Road Funding” (House Document #4) and expands the current

industrial access program to include other economic development sites. The bill added language to §33.1-221 that adds research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Business Assistance as eligible businesses. This change broadens the definition of eligible uses of the access program while maintaining its primary goal of assisting localities in attracting businesses that provide significant amounts of private capital investment employment opportunity and assurance of long term presence in the Commonwealth. (Also SB 13)

#### **HB 1513 Coordination of state and local transportation planning**

This item adds § 15.2-2222.1 and establishes the framework for VDOT's review and comment on proposed changes to local comprehensive plans, rezoning actions and proposed subdivision plats, site plans or other plans for development that affect state-controlled highways. Land use decisions will remain in the jurisdiction of local government. The Department's role in this review process is to support and enhance the local decision making process by providing information and other assistance upon request. This legislation will require the development of statewide regulations to define the standards for traffic impact statements. These regulations will be developed in partnership with local government representatives as well as representatives from other interested and affected entities and are scheduled to be complete by the end of the calendar year. (Also SB 699)

#### **HB 1506 Proffered cash payments**

This bill amends § 15.2-2298 and allows certain localities to accept proffered conditions. Proffers may be used for any off-site road or transportation improvement that is part of the comprehensive plan and included in the capital improvements program.

#### **HB 1521 Comprehensive Plans and Official Maps for Road Improvements**

This bill amends § 15.2-2223 and requires localities to include road and transportation improvements in their comprehensive plan. The plan must include a map that shows road improvements and transportation improvements, including the cost estimates of such road and transportation improvements as available from the Virginia Department of Transportation. (Also HB1529)

#### **HB 1528 Capital Improvement Fund**

This item amends 15.2-2239 and requires a locality to include cost estimates of each road and transportation improvement the locality chooses to include in its capital improvement plan and as provided for in the comprehensive plan.

#### **HB 1543 Rural Addition Program; funds allocated to any county**

This bill states that neither the Commonwealth Transportation Board nor the Commonwealth Transportation Commissioner shall promulgate regulations diminishing funds allocated or allocable to any county for use under the Rural Addition Program solely because the county has taken private roads or constructed roads not built to standards set forth by the Department of Transportation. The bill further provides that, in those counties where the bill is applicable, a local ordinance must state that any and all streets that are not constructed to meet the standards

necessary for inclusion in the system of state highways must be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to current Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. The bill further provides that all streets not built to standards for VDOT acceptance will have appropriate plat notes advising homeowners that public funds are not available for maintenance or improvement. This legislation is related to §33.1-72.1, but did not modify any of the language in that section. Further written guidance will be provided from the Asset Management Division on the impact this legislation will have on each county. (Also HB 1481 and HB1515)

### **SB 373 Transfer of Development Rights**

This bill addresses the transfer of development rights (TDR), which will allow local governments to help guide development toward more efficient patterns while protecting the property rights of local landowners. TDR programs will allow landowners in areas proposed for conservation to voluntarily trade their development rights to parcels in developed areas, and to be compensated for their loss of property value.

### **SB 506 Coal and Gas Road Improvement Fund**

This bill amends § 58.1-3713 and allows localities to use a portion of the revenue from their Coal and Gas Road Improvement Fund to repair or enhance existing water and sewer systems and lines.

### **SB 720 Highway user fees**

This item amends § 15.2-2001 and allows the Commonwealth Transportation Board to enter into agreements with localities, authorities, and transportation districts to establish highway user fees for highways that the localities, authorities, and transportation districts maintain, when the capacity of any system of state highways or a portion thereof is expanded by construction or reconstruction. The bill also allows any locality to establish highway user fees for highways that are not part of any system of state highways when such highway's capacity is expanded by construction or reconstruction.

### **SB 721 Revenue-sharing funds for systems in certain counties, cities, and towns**

The present Code section for the revenue sharing program §33.1-75.1 is repealed, and the new program is relocated to the article of Chapter 1 of Title 33.1 dealing with overall allocations of highway improvement funds. This year's legislation will result in numerous significant changes within this program and localities are encouraged to review the new code section in detail. The more significant changes are summarized here. The present revenue-sharing fund program is expanded to include urban cities and towns, and the allocation request limit is increased to \$1 million per locality. The legislation states that the total limit on state funds shall not exceed \$50 million. Up to half of local contributions may take the form of proffers. The new legislation establishes a prioritization process which will be used to determine which projects receive funding. Unfortunately the anticipated funding for the revised program has not been provided as of yet in the Appropriations Act. Requests for applications have been on hold until available funding was determined. Once a budget is approved for this program, subsequent communication will be sent to all localities reemphasizing the new program requirements and will outline the associated timeframes for application submittals, etc.

### **Federal Legislation**

Also of interest at the federal level, in August 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law authorizing the federal surface transportation program through 2009. While federal funding increased under this legislation, only 6% of the additional funding is available for discretionary programs. The remaining additional funds are only available for specific and specialized programs or earmarked projects.

The legislation devotes additional resources to safety programs including the establishment of a new core Highway Safety Improvement Program and advances initiatives including the Safe Routes to School program. Additional information will be forthcoming on how local governments can apply for funding through these programs.

I hope this summary proves to be helpful. If you have any questions or require additional information, please feel free to contact your local VDOT office or you can reach me at 804-786-2745 or by email at [Michael.Estes@VDOT.Virginia.gov](mailto:Michael.Estes@VDOT.Virginia.gov).

Sincerely,



Michael A. Estes, PE  
Director, Local Assistance Division